

**OPINION
52-55**

June 10, 1952 (OPINION)

DRAINS

RE: Purchaser of Land Under Contract Votes as Owner

Your letter of May 28, 1952, addressed to the "Office of the Attorney General", has on this tenth day of June been referred by the Attorney General to me, as Special Assistant Attorney General for the State Water Conservation Commission, for attention and reply.

In your letter to the Attorney General you say:

In numerous cases we find land that has been sold under contract for deed, and it is our thought that the contract holder (namely, the purchaser) is the person who would be entitled to a vote under the proposed drainage project...

In order to make myself entirely clear, the entire question is this: Is the contract holder (by that I mean the purchaser) the one who is entitled to a vote, or is the seller under the contract the person entitled to a vote?"

When a person buys real estate under contract for deed he becomes the equitable and beneficial owner thereof. The seller retains the legal title and holds such title in trust for the purchaser. The Supreme Court of this state has in numerous cases held that the purchaser of land under contract for deed is the equitable owner and that the holder of the legal title holds the same in trust for the purchaser.

It is therefore my opinion that the conclusion of your drain board is legally sound, namely, that the purchaser of land under contract is entitled to vote as the owner thereof. I would recommend, however, that notice of hearing of petition for establishment of a drain be mailed to the "legal" owner of land sold under contract as well as to the equitable owner.

ELMO T. CHRISTIANSON

Attorney General